

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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RISE ABOVE FITNESS, INC.,  
SALVATORE MACALUSO, and  
JENNIFER MACALUSO,

Plaintiffs,

v.

**ORDER**

Civil File No. 19-1435 (MJD/ECW)

FRANCHOICE, INC. and  
CAREYANN GOLLIVER,

Defendants.

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Based upon the Report and Recommendation by United States Magistrate Judge Elizabeth Cowan Wright dated December 19, 2019, all the files and records, and no objections having been filed to said Report and Recommendation, **IT IS HEREBY ORDERED:**

1. The Court **ADOPTS** the Report and Recommendation of United States Magistrate Judge Elizabeth Cowan Wright dated December 19, 2019 [Docket No. 44], with the exception that, on page 24, the word “Illinois” is replaced with “Colorado.”
2. Defendants’ Motion for Partial Dismissal Pursuant to Rule 12(b)(6) [Docket No. 9] is **GRANTED IN PART** and **DENIED IN PART** as follows:

- a. Defendants' Motion is **GRANTED** as to Plaintiffs' claims under the Minnesota Franchise Act and South Carolina Unfair Trade Practices Act, and those claims are **DISMISSED WITHOUT PREJUDICE**; and
- b. Defendants' Motion is **DENIED** as to Plaintiffs' claim under the New York Franchise Sales Act.

Dated: January 16, 2020

s/ Michael J. Davis

Michael J. Davis

United States District Court